



GUARDIANSHIP

A GUIDE TO GUARDIANSHIP IN THE FAMILY COURT

FAMILY COURT OF THE STATE OF DELAWARE

<http://courts.delaware.gov/family>

What is Guardianship?

Guardianship is the possession by a non-parent of the **powers, rights, and duties** which are necessary to protect, manage and care for a child. A Guardian has the legal authority to take care of the child as if he/she were the child's parent until the child turns 18 years of age.

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Who Can Be a Guardian?

Any person at least 18 years old may be the Guardian of a child. However, if you are not a relative (immediate family member, grandparent, aunt, uncle or first cousin) and the Respondent(s) does not consent to the guardianship, the Division of Family Services must approve the placement.

What are the Responsibilities of a Guardian?

Assuming the Court places no limitations in the Guardianship Order, the Guardian will be responsible for providing for the child both physically and emotionally. The Guardian must provide a healthy and safe living environment, an education and all the necessary and appropriate medical treatment, including but not limited to medical, dental and psychiatric care. Furthermore, the Guardian will be responsible for making the following decisions:

Education;

Travel;

Medical treatment;

Right to marry or enlist in the military;

Representation in legal matters;

Welfare and upbringing; **AND**

Where the child will live.

What are the Responsibilities of the Child's Parent after Guardianship is Granted?

Because a parent's parental rights are not terminated when a non-parent is given guardianship, the Court will determine the following:

- >How much, if any, contact the parent(s) should have with the child after the Guardianship is granted;
- >How much, if any, information about the child the Guardian should share with the parent(s); **AND**
- >A visitation schedule, if appropriate, so that the parent(s) may spend time with the child.

What is included in a Guardianship Order?

Included in a Guardianship Order is a **Custody Order**. Therefore, a Guardian has the same legal authority to care for the child as a parent would. However, unlike a parent, the Guardian cannot be held liable by a third party for something the child has done wrong simply because he/she is the guardian. Additionally, the Court also has the right to limit any of the powers and duties granted to a Guardian.

How Does Guardianship Affect Inheritance?

The child will continue to have the right to inherit from his/her parent(s) and the parent(s) will continue to have the right to inherit from the child. If the Guardian wishes to have the child inherit from him/her, the Guardian must state that desire in a will. For more information on wills and inheritance rights, you should talk to an attorney. Wills and inheritance rights are not handled in Family Court.

Will the parents continue to be responsible for financial support of the child?

The parent may have to continue to provide financial support to the child. In other words, the parent(s) may be required to pay child support to the guardian. Child support is handled in a separate proceeding. If the Court grants guardianship, the Petitioner must file a separate Petition for Child Support in order for the Court to consider their request for child support.

For more information on Guardianship and the forms necessary to file for Guardianship, please see the Guardianship Instruction Packet, available at the Family Court Resource Centers and online at <https://courts.delaware.gov/family>.